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RUEHNE/AMEMBASSY NEW DELHI 5629
RUEHUL/AMEMBASSY SEOUL 9226
RUEHTC/AMEMBASSY THE HAGUE 0846
RUEHKO/AMEMBASSY TOKYO 6804
RUEHCN/AMCONSUL CHENGDU 1884
RUEHCHI/AMCONSUL CHIANG MAI 2263
RUEHCI/AMCONSUL KOLKATA 0732
RHHMUNA/CDR USPACOM HONOLULU HI
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RUEHGV/USMISSION GENEVA 4610
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S E C R E T SECTION 01 OF 05 RANGOON 000446

SIPDIS

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TAGS: [ECON](#) [EFIN](#) [EINV](#) [ETRD](#) [PREL](#) [PGOV](#) [PINR](#) [BM](#)
SUBJECT: U.S. ECONOMIC SANCTIONS ON BURMA -- SOME

REFLECTIONS

REF: A. 08 RANGOON 698
[1](#)B. RANGOON 57
[1](#)C. RANGOON 445

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Classified By: Economic Officer Samantha A. Carl-Yoder for Reasons 1.4
(b and d).

Summary

[1](#)1. (S) Economic sanctions are a cornerstone of U.S. policy toward Burma. The sanctions are broad and include bans on investment, imports of Burmese products, provision of financial services, and targeted sanctions on key regime officials and their cronies. This cable, based on Econoff's two years of observations while implementing USG sanctions policy, examines this policy tool to determine its effectiveness against the regime and to offer suggestions for improvements. The conclusion: the USG should consider adopting a more nuanced approach to sanctions, to ensure that we effectively target the regime and its supporters rather than ordinary Burmese or international organizations working in-country. End Summary.

Background on U.S. Economic Sanctions against Burma

[1](#)2. (SBU) The current U.S. direct sanctions on Burma began in earnest in 1997, in response to the GOB's repression of democratic opposition. Initial sanctions prohibited new U.S. investment in Burma. The 2003 Burmese Freedom and Democracy

Act sought to restrict the financial resources of the military junta by banning imports of Burmese products into the United States and the exportation of financial services to Burma. While the President in 2003 issued an Executive Order to block property and interests of certain Burmese persons, those targeted sanctions were never fully implemented. It was not until 2007, in response to the GOB's September crackdown on peaceful political protesters, that the USG actively began to target the financial assets of key regime officials and their cronies. The 2008 Tom Lantos JADE Act codified the existing Executive Orders and redefined categories of individuals to be sanctioned. Our understanding is that the goal of U.S. economic sanctions is to undermine the military regime by targeting its finances, while at the same time limiting the effects on the populace.

Sanctions: Intent vs. Implementation

13. (S) Embassy Rangoon works closely with the Department of State, the Department of the Treasury, and other agencies to implement U.S. sanctions on Burma. During the course of our work identifying, researching, and recommending potential cronies, companies, and regime officials to add to the targeted sanctions list, we have observed that our sanctions often have unintended consequences, directly and indirectly hurting innocent Burmese and expatriates living and working in Burma. Moreover, those who should be subject to sanctions often find ways to circumvent them, undermining the intent of U.S. policy. Many argue that our sanctions policy frustrates any meaningful dialogue with the regime and cuts potential future leaders off from the "American experience," which may

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inhibit prospects for future progress.

Circumventing Banking Restrictions

14. (S) U.S. law currently prohibits the exportation of financial services to Burma: no banking or credit card transactions. In reality, however, many Burmese companies have daily access to these financial services. For example, large tourist hotels throughout the country offer credit card payment by running transactions through a partner company in Singapore or Thailand, often charging a hefty fee. Individuals and companies, both Burmese and foreign, regularly send U.S. dollars to bank accounts at Myanmar Foreign Trade Bank (MFTB), a banned entity. Our business contacts explain that they transfer dollars from the U.S., the Middle East, or Europe to banks in Singapore, Bangkok, Hong Kong, or China and from there to MFTB. Many individuals and companies opt to transfer money in via the hundi system, an informal banking service (Ref A). These transactions are rarely frozen or tracked.

15. (S) The Financial Action Task Force argues that the hundi system is often used to launder money. Legitimate Burmese (and foreign) businesses argue that U.S. sanctions force use of the hundi system. The businesses have no choice but to use a money laundering mechanism.

Collateral Damage

16. (S) The ban on financial transactions also has unintended consequences, hurting ordinary Burmese and expatriates who live and work in Burma. During the past two years, more than 20 Burmese sailors have asked Embassy Rangoon for assistance after U.S. banks froze their assets as they attempted to remit money home to their families. One sailor lost more than USD 10,000, his entire life savings. At the same time, more than 10 UN staff and several American teachers have had their assets frozen when banking online from a Burmese Internet Service Provider. Several Embassy

Rangoon employees were told by their banks they could not secure loans or open IRA accounts because they were living in Burma. Other diplomatic missions have complained about the difficulty of transferring money necessary for their operations into Burma, and several of our NGO partners have had difficulty transferring cash to implement USG-funded programs.

Trade, FDI on the Rise

¶17. (S) Despite our sanctions banning import to the U.S. of Burmese products, Burma's trade -- both imports and exports -- continues to increase annually (Ref B). Prior to U.S. sanctions, Burmese exports to the U.S., primarily textiles, apparel, and agricultural products, totaled approximately USD 500 million. Many traders and manufacturers have since found alternate markets for their products. (Note: The textile industry is the main exception. The Textile Association claims that due to U.S. sanctions, more than half a million workers lost their jobs. However, U.S. sanctions coincided with the end of the Multi-Fiber Arrangement (MFA), under which Burma received preferential quotas. It is impossible

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to determine the impact of sanctions vice the end of the MFA on Burma's fledgling textile industry. End Note.) Business contacts confirm that many Burmese products, such as raw timber and gems, are shipped to third countries where value is added. Finished products are shipped to the United States, where they are sold nationwide, a practice that the 2008 JADE Act attempts to remedy.

¶18. (S) Implementing the import ban is challenging. For example, while U.S. Customs Agents are highly skilled, they are not trained to know the difference between a Burmese ruby and a Thai ruby. If a company is willing to alter the Certificate of Origin, it can be virtually impossible to prove the product is of Burmese origin. Additionally, the USG has yet to tackle the issue of e-Commerce, and many Burmese products are increasingly sold online. During a July 15 search on Ebay, we found many Burmese jade, gem, and timber products available; many vendors are already inside the United States and even offer to use the U.S. Postal Service for shipping.

¶19. (S) The ban on new investment prevents U.S. companies from providing direct and indirect economic support to the regime. However, that ban keeps U.S. companies from potentially helping to expand and develop Burma's nascent economy in sectors with little regime involvement. Our sanctions also do not stop Burma from seeking other investors. The majority of Burma's foreign direct investment now comes from China and Russia, with Burma trading its rich natural resources -- oil, gas, minerals, electricity -- in exchange for political support.

Targeted Sanctions: The Way to Go

¶10. (S) In the wake of the September 2007 political demonstrations, the United States Government actively began to target the assets of key regime officials and those who benefit from close ties to the regime. Embassy contacts laud these sanctions, noting that they hit the regime and its supporters "where it hurts." Unlike the broader sanctions, these targeted sanctions have somewhat reduced the regime's and its cronies' abilities to profit at the expense of the people. The Department of the Treasury has seized Burmese assets both in the United States and overseas, and with improved cooperation from Singapore and China, could potentially seize hundreds of millions of dollars more. More importantly, targeted sanctions are just that -- Embassy Rangoon has seen little evidence of targeted sanctions negatively impacting ordinary Burmese. We note, though, that while we have anecdotal reports of the effectiveness of

targeted sanctions, the overall impact of this policy remains difficult to measure.

¶11. (S) The 2008 JADE Act codified past Executive Orders into law and expanded the categories of those subject to targeted sanctions. Unfortunately, the categories are vague, open to interpretation, and not consistently applied. For example, the JADE Act calls for all immediate family members of regime members, cronies, and those who violate human rights to be sanctioned. However, while SDPC officials, such as Senior General Than Shwe, are sanctioned, their spouses and children have not yet been added to the targeted financial sanctions list. That failing is an open invitation

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for sanctions evasion.

¶12. (S) The Department of the Treasury's Office of Foreign Assets Control (OFAC) is charged with the task of designating individuals and companies subject to sanctions, using information gathered by various U.S. departments and agencies. We understand that OFAC has strict evidentiary standards for adding new names to the list; but dates and places of birth are often difficult to obtain, particularly since U.S. law prohibits the use of consular files, which contain valuable bio-data. Consequently, only a handful of people (those we have bio-data for) are sanctioned, and many of the real perpetrators of human rights abuses or those who provide significant support to the regime are not yet targeted.

¶13. (S) In light of the JADE Act, there is increased pressure to add more names to the sanctions list. Embassy Rangoon has provided OFAC with more than 200 names of individuals and companies via front channel cable and an additional 200 names in our comprehensive spreadsheet. While we continue the sqh for the information OFAC expects, Embassy Rangoon has limited resources to meet those expectations, and some bio-data is simply not available. Unfortunately, as we sanction more individuals and companies, embassy personnel find themselves with fewer contacts willing to provide information necessary to sanction additional entities. Sources fear that they themselves will become targets of our sanctions.

¶14. (S) While there is increasing pressure to add additional names to the sanctions list, we must realize that an increase in the number of designees should not be the yardstick of success. Instead, the USG should focus on the quality of the designations, to ensure that those targeted are, in fact, those who provide the regime with meaningful economic and political support, are human rights abusers, or are key members of the regime. For example, the Minister of Mines, the Minister of Agriculture (who is also General Secretary of the USDA mass organization), and the Minister of Timber have yet to be designated, even though their Ministries and State-owned Enterprises earn billions of dollars for the regime.

¶15. (S) We should also take into account whether a person who may meet the designation criteria is a key contact of the Embassy and provides valuable information in a country where regime actions and intents are shrouded in secrecy. For instance, our Defense Attache Office has close contacts with several generals, who because of their rank, should be subject to sanctions. However, sanctioning these individuals may not be in the greater USG interest because doing so could potentially cut off important sources of information. In another example, the recent sanctioning of Myanmar Ivanhoe Copper Company Ltd. (MICCL) destroyed the Embassy's relationship with one of the few people engaged in the mining sector who was willing to share information (Ref C).

Conclusion

¶16. (S) Economic sanctions on Burma will work best if we rapidly ensure that those most deserving of censure, particularly the senior leaders and their extended families,

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are all listed, and if we can convince Burma's neighbors (China, India, and the ASEANS) to join the blockade. Broader sanctions that capture wide swaths of economic activity inevitably harm some innocents, crimp the ability of the general public to make a living, and raise cries of unfairness that make it difficult to gain the consensus necessary for effective implementation.

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